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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1969

No. 236

WILLIAM EVANS, ETC., ET AL.,
*Appellants,*

v.

TILLYE CORNMAN, ET AL.,
*Appellees.*

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

## BRIEF OF THE APPELLANTS

### OPINION BELOW

The opinion and order of the United States District Court for the District of Maryland is reprinted at A. 17-27. The opinion is also reprinted at 295 F. Supp. 654.

### JURISDICTION

This suit was brought under 28 U.S.C., §§1343, 1357, 2201, and 2202 and 42 U.S.C., §§1983 and 1988 to restrain actions of the Permanent Board of Registry for Montgomery County, Maryland, refusing to register two of the plaintiffs on the voting registry of the State and threatening to remove the other plaintiffs (who had been permitted to

register) from the voting registry. The complaint, which prayed the convening of a three-judge District Court, sought to enjoin, and the final decree enjoined, the application to the plaintiffs of the provisions of Article I, Section 1 of the Maryland Constitution, which, as authoritatively construed by the Maryland Court of Appeals, provides that residents of reservations under the exclusive territorial jurisdiction of the federal government are ineligible for the state franchise. The final decree of the three-judge District Court enjoining enforcement of the state constitutional provisions as to the plaintiffs was entered on February 19, 1969. An order permitting the Attorney General of Maryland and the Board of Supervisors of Elections of Baltimore City to intervene as parties defendant was entered on April 10, 1969 pursuant to Motion filed on March 17, 1969, no objection thereto having been filed by plaintiffs and entry of the order having been consented to by the defendant members of the Permanent Board of Registry for Montgomery County. Notice of Appeal was filed in the District Court on April 14, 1969. The jurisdiction of the Supreme Court to review this decision by direct appeal is conferred by 28 U.S.C., §1253. The following decisions sustain the jurisdiction of the Supreme Court to review the judgment on direct appeal in this case: *Alabama Pub. Serv. Comm. v. Southern Ry. Co.*, 341 U.S. 341, 343-44 (1951) n. 3; *Davis v. Mabry*, 380 U.S. 251 (1965); *McDonald v. Bd. of Election Commrs. of Chicago*, 22 L. Ed. 2d 739 (1969).

## CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

Article I, Section 8, Clause 17 of the Constitution of the United States, which enables Congress to acquire exclusive jurisdiction over "forts, dockyards, and other needful buildings", reads as follows:

"[The Congress shall have the power to] exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; — And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

Article I, Section 1 of the Constitution of Maryland, declared unconstitutional by the District Court as applied to the named plaintiffs, reads, in pertinent part, as follows:

"All elections shall be by ballot; and every citizen of the United States, of the age of twenty-one years, or upwards, who has been a resident of the State for one year, and of the Legislative District of Baltimore city, or of the county, in which he may offer to vote, for six months next preceding the election, shall be entitled to vote, in the ward or election district, in which he resides, at all elections hereafter to be held in this State. . . ."

Article 96, §34 of the Code of Public General Laws of Maryland, enacted by Chapter 158 of the Acts of 1953, provides, with respect to the site of plaintiffs' residence, that:

"(a) *Consent to acquisition*

The consent of the State of Maryland is hereby given in accordance with Article I, §8, clause 17 of the Constitution of the United States to the acquisition by the United States for public health purposes of the

following described tract of land lying within Montgomery County:

[metes and bounds omitted]

Comprising approximately 317.7 acres as shown on plot of survey, site 1-28. 'National Institutes of Health — Montgomery County, Maryland' prepared by Maddox and Hopkins, Civil Engineers, Silver Spring, Maryland, dated January, 1948, revised May 27, 1948.

"(b) *Jurisdiction* — Exclusive jurisdiction over the parcel of land described in subsection (a) of this section shall be and the same is hereby ceded to the United States for all purposes except that the State retains the right to serve thereon all civil and criminal process of the courts of this State,[1] but the jurisdiction so ceded shall not vest as to all or any portion of the said parcel of land unless and until the United States shall own it, and the jurisdiction shall continue no longer than the United States shall own such land."

## QUESTIONS PRESENTED

1. Does the Fourteenth Amendment to the Constitution of the United States require that residents of federal enclaves, over which the Congress of the United States retains exclusive jurisdiction, be afforded the right to vote in the state in which the enclave is situated?

2. Would the relief sought by the Appellees more appropriately be granted by the Congress of the United States?

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[1] It has long been clear that such a limited reservation by the State does not defeat exclusive federal jurisdiction. Art. I, Sec. 8, Cl. 17 itself makes this clear, as do federal statutes. "A cession by a State of jurisdiction . . . shall be deemed sufficient . . . notwithstanding it contains a reservation that process issued under authority of such State may continue to be served within such place." 1 Stat. 426 (1795), 33 U.S.C.A. § 728, see *Fort Leavenworth R.R. v. Lowe*, 114 U.S. 525 at 533-34 (1885); *United States v. Cornell*, Fed. Case No. 14,867 (D.R.I. 1819) (Story, J.).

## STATEMENT

The present case involves the validity of Article I, Section 1 of the Constitution of Maryland, limiting the right to vote in state and local elections to "citizen[s] of the United States . . . who [have] been resident[s] of the State for one year, and of . . . the county . . . for six months next preceding the election . . ." The constitutionality of the one-year residence period provided by the State Constitution was upheld by this Court in *Drueding v. Devlin*, 380 U.S. 125 (1965), affirming 234 F. Supp. 721 (D. Md. 1964); to the same effect, see *Hall v. Beals*, 38 U.S.L. Week 4006 (November 24, 1969). The constitutionality of disqualifications of nonresidents and of resident aliens, who of course are fully liable for state taxes and personal exactions, has long been well established in decisions of this Court:

> ". . . [I]n *W.M.C.A. v. Lomenzo*, 377 U.S. 633 . . . we treated an apportionment based upon United States citizen population as presenting problems no different from apportionments using a total population measure. Neither in *Reynolds v. Sims*[2] nor in any other decision has this Court suggested that the states are required to include aliens, transients, short-term or temporary residents or persons denied the vote for conviction of crime in the apportionment base by which their legislators are distributed and against which compliance with the Equal Protection Clause is to be measured. The decision to include or exclude any such group involves choices about the nature of representation with which we have been shown no constitutionally founded reason to interfere. . . . The difference between exclusion of all military and military-related personnel, and exclusion of those not meeting a state's residence requirements is a difference between an arbitrary and a constitutionally per-

[2] 377 U.S. 533 (1964).

missible classification." *Burns v. Richardson*, 384 U.S. 73, 91-92 and n. 21 (1966).

The present case involves the application of the Maryland constitutional provision to twelve plaintiffs, all residents on the grounds of the National Institutes of Health. Exclusive jurisdiction over the area on which plaintiffs reside was ceded to the United States in 1953 by Article 96, Section 34 of the Code of Public General Laws of Maryland, Chapter 158 of the Acts of 1953, and was accepted by the United States, the State reserving only the right to serve its civil and criminal process on the reservation. The outstanding treatise on the subject of the rights and obligations of residents of federal enclaves is the two-volume Report of the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States entitled "Jurisdiction Over Federal Areas Within The States", prepared in 1956 and 1957 [hereinafter referred to as "Interdepartmental Committee Report"]. While some of the plaintiffs had previously resided and voted in Maryland outside the federal reservation, none of them claimed an intention to retain his previous residence as a basis for allowance to him of the franchise.[3] None of the affidavits of plaintiffs contained any facts from which retention of a domicile outside the federal reservation could be found.

Ten of the twelve plaintiffs on or about October 18, 1968 were threatened with removal from the voting rolls upon discovery of the fact that they resided outside the State's jurisdiction; two of the plaintiffs were refused registration

[3] The circumstances in which a Maryland resident moving on to a federal reservation may be deemed to have intended to retain his prior residence are outlined in *Walsh v. Crouse*, 194 A. 2d 107 (Md., 1963), making clear that persons residing on federal reservations by legal compulsion do not forfeit their rights at their prior place of residence.

on the same ground, since it has long been established that residents of reservations under the exclusive jurisdiction of the federal government are not residents of Maryland. *Lowe v. Lowe,* 133 Atl. 729 (Md., 1926); *Royer v. Board of Election Supervisors,* 191 A. 2d 446 (Md., 1963), *cert. den.* 375 U.S. 921 (1963); *Tanner v. McKeldin,* No. 17,373 Eq. (Cir. Ct. Frederick Co. 1953); 10 *Opinions of the Attorney General of Maryland* 107 (1925); 11 Id. 120 (1926); 17 Id. 139 (1932); 36 Id. 129 (1951); 46 Id. 114 (1961); 47 Id. 103 (1962).

On October 24, 1968, plaintiffs instituted the present action, praying declaratory and injunctive relief against removal or exclusion from the voting rolls of the named plaintiffs and praying the covening of a three-judge court and the issuance of a temporary restraining order. Pursuant to 28 U.S.C. §2284(a), the Attorney General of Maryland was advised of the filing of the action, and at the request of counsel for the Permanent Board of Registry for Montgomery County conducted the defense of this action. On October 25, 1968, a hearing was conducted by the three-judge court. On October 28, 1968, Chief Judge Thomsen, the District Judge to whom the application for three-judge court and temporary restraining order had been presented, issued, pursuant to 28 U.S.C. §2284(3), a temporary restraining order preserving the status quo by granting temporary relief to the ten plaintiffs who had been inadvertently registered but not to the two who had unsuccessfully sought registration, the Court noting the imminence of the national election on November 5, 1968. The accompanying opinion found, notwithstanding the directly applicable *Royer* case in which this court had denied certiorari only five years earlier, a "paucity of authority" on the point at issue (A. 11).

On January 29, 1969, the three-judge court, following further argument, rendered an opinion expressing the view that Art. I, Section 1 of the Maryland Constitution, as construed in *Royer v. Board of Election Supervisors, supra*, was invalid as applied to the plaintiffs. The opinion, which discussed none of this court's prior holdings relating to the legal status of federal reservations, relied entirely on "implication" (A. 23) from a dictum in *Howard v. Commrs. of Louisville*, 344 U.S. 624 (1953) and on the holding in *Carrington v. Rash*, 380 U.S. 89 (1965), a case not involving federal enclaves at all, in reaching a result which the court conceded was unsupported by and contrary to the directly applicable decisions (A. 19). On February 19, 1969, the court signed an order in the form submitted by plaintiffs granting them the relief prayed. The defendants' prayer that entry of the order be stayed for a period of sixty days to permit the filing of a Notice of Appeal to this court and be stayed thereafter pending decision by this Court was refused, the Court explaining that "[w]e agreed upon [plaintiffs'] form of order so that the plaintiffs would not be prevented from voting this fall if there is a special election". At the time, some nine months prior to November, 1969, no special election had been called; the special election called by the Maryland General Assembly by Chapter 76 of the Acts of 1969, approved April 9, 1969, was found to be unconstitutionally called in *Cohen v. Governor of Maryland*, 255 A. 2d 320 (Md., 1969).

On March 17, 1969, the Attorney General of Maryland and the Members of the Board of Supervisors of Elections of Baltimore City filed a Motion to Intervene as parties defendant in this action pursuant to Rules 24(a)(2) and 24(b)(1) and (2) of the Federal Rules of Civil Procedure.[4]

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[4] By statute, Md. Code Ann., Art. 32A, Sec. 2 (1957), the Attorney General of Maryland is counsel to the Board of Supervisors of Elec-

On April 10, 1969, the Permanent Board of Registry of Montgomery County having consented to intervention and no objection thereto having been filed by plaintiffs, an order was signed by the court granting the requested intervention. On April 14, 1969, the intervenors noted the present appeal. Probable jurisdiction was noted by this Court on October 13, 1969.

## ARGUMENT

### I.

### THE FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES DOES NOT REQUIRE THAT RESIDENTS OF FEDERAL ENCLAVES, OVER WHICH CONGRESS RETAINS EXCLUSIVE JURISDICTION, BE AFFORDED THE RIGHT TO VOTE IN THE STATE IN WHICH THE ENCLAVE IS SITUATED.

The lower court, in its opinion, recognized that the majority of State court decisions have concluded that residents of Federal enclaves are not residents of the State in which the enclave is situated for voting purposes, stating that (A. 19):

> "[I]t has been held in most of the cases considering the question that where the federal government has exclusive jurisdiction of an enclave, persons residing in such enclave are not state residents for voting purposes."

This principle was first enunciated in *Opinion of the Justices*, 1 Metc. 580 (Mass., 1841), was further developed in oft-cited case of *Sinks v. Reese*, 19 Ohio St. 306 (1869), and has been carried forward in a long line of decisions, the most recent of which was filed less than seven months ago. See *Langdon v. Jaramillo*, 454 P. 2d 269 (N.M., 1969). See also *State ex rel. Wendt v. Smith*, 103 N.E. 2d 822 (Ohio,

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tions of Baltimore City, and the Secretary of State of Maryland. He is not counsel, however, to the Permanent Board of Registry of Montgomery County, or to the Board of Supervisors of Elections of Montgomery County.

1951); *Arledge v. Mabry*, 197 P. 2d 884 (N.M., 1948); *State ex rel. Parker v. Corcoran*, 128 P. 2d 999 (Kan., 1942); *Merrill v. Shearston*, 214 Pac. 540 (Colo., 1923); *State ex rel. Lyle v. Willett*, 97 S.W. 299 (Tenn., 1906); *McMahon v. Polk*, 73 N.W. 77 (S.D., 1897); *In re Town of Highlands*, 22 N.Y. Supp. 137 (1892); *United States v. Cornell*, Fed. Case No. 14,867 (D.R.I., 1819) (Story, J.); see generally cases collected in 34 A.L.R. 2d 1193-1202 (1954). The lower court's opinion is the first and only federal court decision in which a contrary conclusion has been reached.

One of the most recent cases on this subject is *Royer v. Board of Election Supervisors, supra.* Because the *Royer* case clearly enunciates the Maryland law on this subject, it was binding on the lower court in the absence of a violation of the Appellee's rights protected by the United States Constitution. For this reason, the basis for the decision bears close examination.

The case involved certain petitioners who were civilian employees of the United States Government at the Perry Point Veterans' Hospital located within the geographical limits of Cecil County, Maryland. The petitioners also resided there and had no other residence in the county. The tract known as Perry Point was purchased by the United States Government in 1918 and exclusive jurisdiction was ceded by statute by the State of Maryland, the only reservation being the State's right to serve civil and criminal process upon persons found there. The action of the Federal government in assuming exclusive jurisdiction was taken pursuant to Article I, section 8, clause 17 of the United States Constitution which reads, in pertinent part, as follows:

> "[The Congress shall have the power to] exercise exclusive Legislation in all Cases whatsoever . . . over all Places purchased by the Consent of the Legislature

> of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; — And
>
> "To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

Petitioners sought an order requiring the Board of Election Supervisors of Cecil County to register them as qualified voters in that county.

As did the court below, the Court of Appeals of Maryland carefully examined the "various [federal] statutes waiving or receding to the State's jurisdiction in certain particulars" (see Argument, I.A., *infra*) and the rights, privileges and obligations conferred upon the residents of Federal enclaves by legislative acts of the State of Maryland (see Argument, I.B., *infra*). Upon concluding its discussion of these points, the Court stated (at page 449):

> "But in any event, the mere fact that the United States Government has seen fit to yield, for the time being and for reasons of policy, some of its exclusive rights to the States, does not, we think, amount to a general grant of concurrent jurisdiction. Nor does it compel the States to afford voting privileges. . . . Nor do we find in the latest case on the subject, Paul v. United States, 371 U.S. 245, 83 S. Ct. 426, 9 L. Ed. 2d 292, any intimation that the Fourteenth Amendment will be extended to cover residents of Federal enclaves, where the matter has traditionally been left to adjustment between the Federal and State legislative bodies. . . .
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> * * *
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> "The appellants' constitutional argument seems to be based, not upon a claim of equal protection but on a claim of 'taxation without representation.' This colonial slogan is not found in our State Constitution, or

> in the Federal Constitution, and the principle is not without exception. See Thomas v. Gay, 169 U.S. 264, 276, 18 S. Ct. 340, 42 L. Ed. 740. . . .
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> * * *
>
> "If a change is desirable . . ., we think it should be through adjustment by the sovereign legislative bodies and not imposed by the courts."

Despite this background, the lower court nonetheless reached a conclusion poles apart from that of the *Royer* court (A. 25):

> "We conclude that on balance the plaintiffs here are treated by the State of Maryland as state residents to such an extent that it is a violation of the Fourteenth Amendment for the State to deny them the right to vote."

In support of this holding the lower court relied upon the "similar reasoning" of the three state cases which, standing alone, represent the minority view on this point [*Arapajolu v. McMenamin,* 249 P. 2d 318 (Calif. D. Ct. App., 1st D., 1952); *Adams v. Londeree,* 83 S.E. 2d 127 (W. Va., 1954); and *Rothfels v. Southworth,* 356 P. 2d 612 (Utah, 1960)]. These very cases were considered by the Court of Appeals of Maryland in *Royer* and were aptly disposed of with the following language (from page 449 of that opinion):

> "The appellants rely upon three recent cases [references and citations omitted]. The Arapajolu case was decided by an intermediate court, and the case was denied review by the Supreme Court of California, three judges dissenting. The decision turned on the court's construction of the local statute . . . In both the Rothfels and Adams cases there were powerful dissents, and the decisions were rested on the local statutes *and the fact that the state had reserved concurrent jurisdiction.* We think these cases are readily distinguishable and not persuasive." (emphasis supplied.)

Thus, in reaching its conclusion that the Fourteenth Amendment requires that residents of Federal enclaves be entitled to vote in state and local elections, the lower court overrode a decision reached less than six years earlier by the Court of Appeals of Maryland, which decision was denied review by the United States Supreme Court shortly thereafter.

There are basically two underpinnings upon which this action of the lower court rests; namely that

1. The exclusive jurisdiction formerly exercised by the Congress over Federal enclaves has been eroded through successive retrocessions of legislative authority to the States so that the result is that exclusive jurisdiction no longer remains in the United States Government.
2. The incidence of state citizenship conferred upon residents of Federal enclaves by the Maryland Legislature requires that the State of Maryland treat these persons as State residents for voting purposes.

Both of these principles must be carefully scrutinized by this Honorable Court.

A. *The Legislative Retrocessions by Congress Do Not In Any Way Limit the Continuing Exclusive Federal Jurisdiction Over These Areas.*

The court below conceded that "exclusive jurisdiction" over the lands of the National Institutes of Health was ceded to the United States by virtue of Article 96, Sections 31, 34, 36 and 37 of the Maryland Code (A. 20-21). Indeed, if there could be any doubt on this point, it is laid to rest by the *Inventory Report of Jurisdictional Status of Federal Areas Within the States — Maryland* (General Services Administration, 1962) which lists (at p. 343) the National

Institutes of Health under its "jurisdictional code" as *exclusive*. To the same effect, see *Interdepartmental Committee Report*, Part I, p. 105.

The court found, however, "that the concept of exclusive federal jurisdiction over reservations such as the one here involved has been drastically altered within the past 40 years" (A. 22), citing eight statutes enacted by Congress between 1928 and 1950, six of which[5] retroceded certain civil and criminal jurisdiction to the states and two of which[6] authorized the extension by the states of the benefits of certain remedial legislation to residents of federal enclaves. The Appellants readily admit that sporadic Congressional action has taken place but urge that in no way can this be said to alter the *exclusive* jurisdiction of the United States over these areas.

It is axiomatic that there are "four categories of legislative jurisdictional situations (in which the United States

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[5] State tax permitted upon gasoline and other motor vehicle fuels sold on federal enclaves (4 U.S.C. § 104 (1936), known as the Lea Act); States permitted to enforce unemployment insurance law on federal enclaves (26 U.S.C. § 3305(d) (1939)); States permitted to levy and collect sales, use and income taxes within federal enclaves (4 U.S.C. §§ 105-110 (1940), known as the Buck Act); States permitted to tax a lessee's interest in real estate leased by the federal government in an enclave (10 U.S.C. § 2667(e) (1947), known as the Military Leasing Act); State criminal law in effect at time of act or omission controls on federal enclaves (18 U.S.C. § 13 (1948), amendment to Assimilative Crimes Act of 1825); payments to local areas whose educational systems are "impacted" by children of residents of federal reservations (20 U.S.C. § 236(2) (1950)).

This last statute was incorrectly included by the court below in its list of retrocessions. The Act (20 U.S.C. §§ 236-241-1) is very broad, reaching also "agencies [providing] education for children whose parents are *employed* on Federal property." (emphasis supplied.) Furthermore, it expands neither the rights nor obligations of enclave residents.

[6] State wrongful death statutes available to residents of federal enclaves (16 U.S.C. § 457 (1928)); State workmen's compensation law extended to federal enclaves (40 U.S.C. § 290 (1936)).

has (a) exclusive, (b) concurrent, (c) or partial legislative jurisdiction, or (d) a proprietorial interest only)" and it is clear that

> "[W]hen the Federal Government receives exclusive legislative jurisdiction over an area, the jurisdiction of the State . . . is ousted, subject only to the right to serve process and to the several concessions made by the Federal Government which have already been mentioned [see footnotes 5 and 6, *supra*]. Thereafter only Congress has authority to legislate for the area.
>
> * * *
>
> "Federal areas of exclusive jurisdiction are considered in many respects to comprise legal entities separate from the surrounding State, and, indeed, until a recent decision of the United States Supreme Court dispelled the notion [*Howard v. Commissioners of Louisville*, *supra*, discussed *infra*], were viewed as completely sovereign areas (under the sovereignty of the United States), geographically surrounded by another sovereign. As a result, there is no obligation on the State . . . to provide for such areas normal governmental services. . . ." (emphasis supplied). *Interdepartmental Committee Report*, Part I, pp. 15 and 17.

This definitive Report, written six years after passage of the most recent of the retrocession statutes, recognizes that federal legislative jurisdiction remains exclusive in these areas. Indeed, the Buck Act itself (identified by the lower court (A. 21) as the "most extensive and far reaching retrocession statute enacted by Congress") expressly recites that

> ". . . the provisions of this title shall not for the purposes of any other provision of law be deemed to deprive the United States of exclusive jurisdiction over any federal area over which it would otherwise have exclusive jurisdiction or to the limit the jurisdiction over any federal area." 4 U.S.C. § 108.

Seeking further support for its theory of the transcendental nature of federal enclaves, the lower court relied upon the decision of this Court in *Howard v. Commissioners of Louisville, supra.* The *Howard* case (never subsequently cited by this Court) held merely that a state legislature could alter the boundaries of subdivisions to include a federal reservation in an incorporated rather than an unincorporated area for tax purposes. The City of Louisville annexed into its city limits certain territory, including a Naval Ordnance Plant tract, and then assessed its 1% local income tax upon the wages of plant employees, pursuant to the express provisions of the Buck Act (4 U.S.C. § 106). This Court (at p. 627) found that

> "Kentucky's consent to [federal] acquisition gave the United States power to exercise exclusive jurisdiction within the area. A change of municipal boundaries did not interfere in the least with this jurisdiction of the United States within the area or with its use or disposition of the property.
>
> * * *
>
> "Even though the Ordnance Plant is within the boundaries of the City of Louisville pursuant to the annexation, exclusive jurisdiction over the area still remains with the United States, except as modified by statute. [citations omitted.]"

Furthermore, the *Interdepartmental Committee Report,* Part II, p. 248, recognizes that ". . . the *Howard* decision immediately related to a State's rights over individuals in Federal enclaves *rather than to individual's rights to privileges under the State law.*" (emphasis supplied.) See also *Mississippi River Fuel Corporation v. Cocreham,* 382 F. 2d 929 (5th Cir., 1967) at p. 938 (footnote 17):

> ". . . By holding that the State of Kentucky and its political subdivisions retained control over their own geographic boundaries *Howard* did not therefore imply that a state has legislative power within a federal

enclave unless exercise of that power interferes with the federal government. The Supreme Court upheld the city's power to tax only because of express congressional authorization: The Court recognized that Congress alone had political control within the federal area."

The fallacy underlying the lower court's position, that exclusive federal jurisdiction over enclaves has somehow been eroded by retrocession statutes and court decisions, is focused upon in the following incisive excerpt from Sewell, "The Federal Enclave", 33 *U. Tenn. L. Rev.* 283, 307-08 (1966):

"... It makes sense to contend that the Federal statutes in question evidence a clear intention that the United States regards the areas in question as remaining within the States. But it is quite another matter to take the unnecessary step of suggesting an inference from these statutes that basic legislative jurisdiction has been surrendered to the States. The courts using this form of reasoning have done so for the purpose of expanding the permissive realm of State legislative authority to matters not covered by the statutes. *It would appear that, if any inference at all with respect to the matter is warranted, the absence of a Federal permissive statute with respect to a particular subject would indicate an intention to preclude the State from exercising legislative authority in that respect.*

* * *

"A final point should be made, and this is the most telling. Exclusive Federal jurisdiction has reference to the exclusive authority to legislate, rather than to the actual state of substantive law in effect on enclaves. *Permissive statutes of the type in question constitute an exercise of the Federal legislative power. They do not surrender jurisdiction but merely permit State law, in some instances, to extend on Federal areas.* As an illustration of this point, it should be recognized that the United States may, at any time, repeal the

> statutes in question and discontinue the application of State laws. If jurisdiction had actually been surrendered, it would not be possible for the United States to recapture it in this manner." (emphasis supplied.)

Finally, the decision of this Court in *Offutt Housing Company v. Sarpy*, 351 U.S. 253 (1956), decided three years after *Howard*, entirely undercuts the position of the lower court on this point. In upholding Nebraska's right to assess personal property taxes (by virtue of 10 U.S.C. § 2667(e), see footnote 5, *supra*) against land on an air force base leased to a private corporation, the Court stated (at pp. 260-261) that:

> ". . . we have concluded that [by statute] the States were to be permitted to tax private interests, like those of this petitioner, in housing projects located on areas subject to the federal power of 'exclusive legislation.' We do not hold that Congress has relinquished this power over these areas. We hold only that Congress, in the exercise of this power, has permitted such state taxation as is involved in the present case."

Despite Congressional action, the conclusion is hence inescapable that exclusive federal jurisdiction over the National Institutes of Health and similarly situated enclaves remains unimpaired and unencumbered.

B. *The Limited Legislative Activity of the State of Maryland, With Respect To Residents of Federal Enclaves Within the State, Does Not Require the State To Extend Voting Rights To These Residents.*

It has already been seen that Congress' "several concessions", expanding certain rights and obligations of residents of federal enclaves, have not undercut pre-existing exclusive federal jurisdiction over these areas. The lower court sought to buttress its opinion (in a shift from the federal to state level) by emphasizing (A. 22) that the

"Maryland legislature . . . has conferred other benefits of State citizenship on such individuals [citing three isolated examples]."[7] The court's theory (A. 25) is that:

> ". . . on balance the plaintiffs here are treated by the State of Maryland as state residents to such an extent that it is a violation of the Fourteenth Amendment for the State to deny them the right to vote."

This theory merits careful scrutiny.

There can be no doubt that a transfer of exclusive jurisdiction from state to federal sovereignty works hardships upon enclave residents in many instances. This is best summarized in the *Interdepartmental Committee Report*, Part II, p. 215:

> "EFFECTS OF TRANSFERS OF LEGISLATIVE JURISDICTION: *In general.* — With the transfer of sovereignty, which is implicit in the transfer of exclusive legislative jurisdiction, from a State to the Federal Government, the latter succeeds to all the authority formerly held by the State with respect to persons within the area as to which jurisdiction was transferred, and such persons are relieved of all their obligations to the State. . . . And transfer of legislative jurisdiction from a State to the Federal Government has been held to affect the *rights* or *privileges*, as well as the *obligations*, of persons under State law. Specifically, it has been held to affect the rights of residents of areas over which jurisdiction has been transferred to receive an education in the public schools, to vote and hold public office, to sue for a divorce, and to have their persons, property, or affairs subjected to the probate or lunacy jurisdiction of State courts; it has also been interpreted as affecting the right of such residents to receive various other miscellaneous services ordinarily rendered by or under the authority of the State."

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[7] Divorce and annulment proceedings (Article 16 § 23 of the Maryland Code, added by Chapter 225 of the Laws of Maryland of 1927); adoption proceedings (Article 16 § 69 of the Maryland Code, added by Chapter 599 of the Laws of Maryland of 1947); access to public schools.

Maryland has recognized these inequities and has provided legislative solutions[8] to some, if not all, of them (divorce and annulment, adoption and public education). With specific reference to voting, Maryland has also attempted on several occasions to remove the apparent inequity. See testimony of the Honorable Thomas B. Finan, Attorney General of Maryland, reported in "Adjustment of Legislative Jurisdiction on Federal Enclaves", *Hearings Before the Subcommittee on Intergovernmental Relations of the Committee on Government Operations of the United States Senate* (88th Congress, First Session, 1963), pp. 121-30 [hereinafter referred to as "Hearings"]. More recently, the proposed Maryland Constitution, adopted by the Constitutional Convention of Maryland on January 10, 1968, contained the following language:

> "2.04 VOTERS IN UNITED STATES ENCLAVES
>
> A person shall not be deemed ineligible to vote in any election solely by reason of the fact that he resides on land over which the United States has been ceded jurisdiction."

This document failed of ratification at a special election held on May 14, 1968.

These efforts have been made despite the fact that "there is no obligation on the State" to do so and that residents of federal enclaves are relieved of many of the obligations of state citizenship. The extent of these escaped obligations (discussed in detail in the *Interdepartmental Committee Report*, Part II, pp. 177-188) includes freedom from real estate, severance,[9] personal property,[10] and other

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[8] Others may be resolved by the rule enunciated by this Court in *Chicago, Rock Island & Pacific Ry. v. McGlinn*, 114 U.S. 542 (1885), that residents of federal enclaves may claim the benefit of state legislation in effect at the time of transfer of exclusive jurisdiction. See generally *Interdepartmental Committee Report*, Part II, pp. 145-163.

[9] *Mississippi River Fuel Corporation v. Cocreham, supra.*

[10] *Humble Pipe Line Co. v. Waggonner*, 376 U.S. 369 (1964).

state taxes (except those authorized by the Buck Act and the Military Leasing Act); freedom from state regulatory and licensing legislation; freedom from service in the militia; freedom from compulsory education laws; and freedom from jury service.

Reduced to its simplest terms, the lower court's view is that if Maryland is to dispense generosity, it must dispense *absolute* generosity — that by exercising retroceded legislative jurisdiction and by offering the benefits of a few pieces of civil legislation, Maryland has unwittingly relinquished its right to withhold from residents of federal enclaves the elective franchise. The unprecedented nature of this theory is best and most vividly demonstrated by the total absence of authority cited for it by the lower court.

The decision in *Carrington v. Rash, supra,* was loosely alluded to (A. 25) but is neither controlling nor persuasive. There, the provision in the Texas Constitution that servicemen, during their tour of duty, whether or not residents of federal enclaves, could not vote in state elections was found to be invidiously discriminatory and, hence, violative of the Fourteenth Amendment. The rationale of *Carrington* simply is that the right to vote may not "casually" be withheld from one merely because of the nature of his current employment. The Appellants entirely agree. Cf. *Kramer v. Union Free School District No. 15,* 37 U.S. L.Week 4530 (June 16, 1969); *Cipriano v. City of Houma,* 37 U.S. L.Week 4598 (June 16, 1969).

Residents of federal enclaves are free from many of the *obligations* of state citizenship. Maryland has done more than most states in securing for them some of the attendant *rights.* This combination of circumstances does not somehow create a wellspring from which voting rights are made to flow by judicial fiat.

The lower court's decision creates a federal cause of action where none previously existed and accomplishes this *tour de force* without the benefit of either apposite or analogous case law. Furthermore, it has been seen that the two theories upon which the decision is based are unsound.

## II.

### ADJUSTMENT OF THE VOTING STATUS OF RESIDENTS OF FEDERAL ENCLAVES IS PROPERLY A MATTER FOR LEGISLATIVE RATHER THAN JUDICIAL ACTION.

If the decision of the lower Court were to be upheld by this Court, the result would be that all residents of Federal enclaves able to meet the age and the period of residency requirements of the applicable State laws, would immediately become entitled to vote in elections held in the State in which the enclave is located. Those most familiar with the jurisdictional problems attendant to Federal enclaves recommend a far less drastic, but equally effective, solution to the problem. The Interdepartmental Committee for the Study of Jurisdiction over Federal Areas Within the States, after sixteen months of exhaustive inquiry into these problems, reached some of the following conclusions:

> "It is clear that the legislative jurisdictional status of many Federal installations and areas is in need of major and immediate adjustment to bring about the more efficient management of the Federal operations carried out thereon, the furthering of sound Federal-State relations, *the clarification of the rights of the persons residing in such areas* and the legalization of many acts occurring on these installations and areas which are currently of an extra-legal nature. Many adjustments can be accomplished unilaterally by Federal officials within the framework of existing statutory and administrative authority by changing certain of their existing practices and policies. Others

may be capable of accomplishment by cooperative action on the part of the appropriate Federal and State officials."

* * *

"The most immediate need, in the view of the Committee, is to make provision for the retrocession of unnecessary jurisdiction to the States. A number of Federal agencies, as well as a significant proportion of the responding State attorneys general, have made recommendations along this line. The Committee heartily concurs in these recommendations."

* * *

"It is the belief of the Committee that the need for the Federal and State legislation which [it] has recommended is demonstrated by its study and in this report. With the enactment of such legislation, and with the revision by Federal agencies of their policies and practices relating to the acquisition or retention of legislative jurisdiction so that they are in conformity with the recommendations made in the report, the Committee is confident that most of the problems presently arising out of this subject could be resolved, to the great benefit of the Federal Government, the States and local governmental entities, residents of Federal areas, and the many others who are affected." (emphasis supplied.) *Interdepartmental Committee Report*, Part I, pp. 70-71, 71-72 and 79.

On August 11, 1956, less than five months after its Report was presented, Senate Bill 4196 was introduced into the 84th Congress at the request of the President of the United States, with the sponsorship of the Interdepartmental Committee. The Bill was not passed, but was re-introduced in identical form at subsequent sessions, receiving its most careful study as Senate Bill 815 of the 88th Congress. This Bill read, in pertinent part, as follows:

*"Be it enacted by the Senate and House of Representatives of the United States of America in Con-*

*gress assembled.* That (a) with respect to federally owned or operated land areas in the several States, the Congress finds that the retention by, or relinquishment to, the States of legislative jurisdiction of the kind involved in article I, section 8, clause 17, of the Constitution of the United States, (1) *enables States and local communities to obtain tax revenues from persons, private property, and business transactions within such area, if not otherwise exempt;* (2) relieves the Federal Government in many respects from the performance of functions normally exercised by the States and local communities; and (3) *provides a basis for assuring to the residents of such areas many rights, privileges, and services which they would normally enjoy when the Federal Government does not have exclusive jurisdiction over such areas.*

(b) It is hereby declared to be the policy of the Congress that—

(1) the Federal Government shall receive or retain only such measure of legislative jurisdiction over federally owned or operated land areas within the States as may in particular cases be necessary for the proper performance of such of its functions as are performed upon such areas; and

(2) to the extent consistent with the purposes for which the land is held by the United States the Federal Government shall avoid receiving or retaining concurrent legislative jurisdiction or any measure of exclusive legislative jurisdiction.

Sec. 2. Notwithstanding any other provision of law, the obtaining or retaining of exclusive jurisdiction or other measure of legislative jurisdiction by the United States over lands or interest therein which have been or shall hereafter be acquired by it shall not be required. The head or other authorized officer of any department or independent establishment or agency of the Government may consistent with the policy set forth in this Act, acquire from, or relinquish to, the State in which any lands or interests therein under

his immediate jurisdiction, custody, or control are situated, such measure of legislative jurisdiction over such lands or interests as he may deem desirable. . . ." (emphasis supplied).

As is apparent from the text of the Bill, it would have adopted a policy that only *necessary* Federal jurisdiction be retained and would have authorized the heads of government agencies to acquire or cede such jurisdiction as they saw fit.

Because the Bill was actively opposed by the National Association for the Advancement of Colored People (see *Hearings*, pp. 140-170) (although supported by the President and Attorney General of the United States, a majority of the State governors and attorneys general[11] and the American Civil Liberties Union), it was never enacted into law. For a general discussion of this Bill see Strass, "Federal Enclaves — Through the Looking Glass — Darkly," *15 Syr. L. Rev.* 754 (1964). Passage of Senate Bill 815 would have provided a vehicle by which the multitude of Federal-State jurisdictional problems with respect to Federal enclaves could have been resolved.

Such broad-based congressional action is not necessary, however, to provide the relief sought by the Appellees in this case. On a number of occasions Congress has retroceded jurisdiction over certain enclaves in order to permit the residents of that enclave to vote in the State in which the enclave is situated.[12] There are currently two bills

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[11] Including the Honorable Thomas B. Finan, Attorney General of Maryland, who testified in favor of the Bill. See *Hearings*, pp. 121 *et seq.*

[12] Fort Lyon Veterans Hospital reservation, Las Animas, Colorado (Public Law 89-626, approved 1966) (see Report of Committee on Veterans' Affairs of the House of Representatives, attached to this Brief as Exhibit A); Atomic Energy Commission reservation, Sandia, New Mexico (68 Stat. 961, approved 1954); Atomic Energy Commission reservation, Los Alamos, New Mexico (63 Stat. 11, approved

pending in Congress which would specifically retrocede jurisdiction to permit voting at certain military bases, upon acceptance of the retrocession by the states involved.[13] Also, as an outgrowth of the recommendations of the Intergovernmental Committee Report and the theories expressed in Senate Bills 4196 and 815, already discussed, certain Federal agencies[14] are seeking to obtain for department heads the right to relinquish unneeded jurisdiction, which retrocession would almost certainly include voting rights.

The State of Maryland would support any congressional action which would put the residents of Federal enclaves upon an equal footing with residents of the State generally. It believes that the recommendations of the Intergovernmental Committee Report, quoted above, represent the most responsible and appropriate manner in which this result may be accomplished. But the relief sought by the Appellees could be achieved through either general or specific retrocessions by Congress.

In conclusion, the Appellants urge that there is considerable logic and force to the dictum in *Royer v. Board of Election Supervisiors, supra* at p. 449:

> "If a change [in the voting status of enclave residents] is desirable . . ., we think it should be through adjustment by the sovereign legislative bodies and not imposed by the courts."

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1949); Disabled Soldiers' Home, Kansas (31 Stat. 1175, approved 1901); Disabled Soldiers' Home, Ind. and Ill. (30 Stat. 668, approved 1898); Disabled Soldiers' Home, Ohio (16 Stat. 399, approved 1871); Alexandria County (formerly a portion of the original District of Columbia) (9 Stat. 35, approved 1846).

[13] S. 2949, introduced September 23, 1969, by Senator Muskie, relating to Dow Air Force Base, Maine; H.R. 346, introduced January 3, 1969, by Congressman Scott, relating to Dahlgren Naval Weapons Laboratory, Virginia.

[14] H.R. 13301, introduced August 4, 1969, by Congressman Teague with respect to the Administrator of Veterans' Affairs.

## CONCLUSION

An examination of the theories put forth by the lower court to support its opinion establishes that exclusive federal jurisdiction remains intact over the enclaves in question (despite certain isolated retrocessions) and that the State of Maryland exercises only insignificant legislative jurisdiction in these areas. Thus, it cannot be said that residents of these areas must be afforded voting privileges in order to avoid a violation of the Fourteenth Amendment. A contrary decision would be inherently unfair to the states because it would permit persons to vote who are neither liable for many local taxes nor in many instances are subject to the authority of the very persons for whom they may vote. Such a decision should not be entered into hastily and should be the result of legislative rather than judicial deliberation. If the careful balance between rights and responsibilities of residents of federal enclaves is to be altered, it should be the result of a carefully drawn legislative enactment such as the one proposed by the Interdepartmental Committee.

Respectfully submitted,

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ROBERT F. SWEENEY,
Deputy Attorney General of Maryland,

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December 4, 1969.

## PROOF OF SERVICE

I HEREBY CERTIFY that on this 3rd day of December, 1969, I mailed by first class mail, postage prepaid, a copy of the Brief of the Appellants, to Richard F. Schifter, Esquire, Strasser, Spiegelberg, Fried, Frank & Kampelman, 1700 K Street, N.W., Washington, D.C. 20006, Attorney for the Appellees.

HENRY R. LORD,

Assistant Attorney General
of Maryland.

EXHIBIT A

89TH CONGRESS 1st Session } HOUSE OF REPRESENTATIVES { REPORT No. 1505

# RETROCEDING TO THE STATE OF COLORADO JURISDICTION OVER THE FORT LYON VETERANS HOSPITAL

MAY 10, 1966.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TEAGUE of Texas, from the Committee on Veterans' Affairs, submitted the following

## REPORT

[To accompany H.R. 12664]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 12664) to retrocede to the State of Colorado exclusive jurisdiction held by the United States over the real property comprising the Fort Lyon Veterans Hospital, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

On line 6, strike out "Lyons" and insert "Lyon".

On line 6, insert "reservation" after the word "Hospital".

Amend the title so as to read:

A bill to retrocede to the State of Colorado exclusive jurisdiction held by the United States over the real property comprising the Fort Lyon Veterans Hospital reservation.

### EXPLANATION OF THE BILL

Simply stated, the purpose of this bill is to facilitate the opportunity to vote of residents of the Fort Lyon, Colo., Veterans' Administration reservation by retroceding to Colorado exclusive jurisdiction over the reservation.

The Fort Lyon Veterans Hospital is located in Bent County in Colorado, near the city of Las Animas. It is on a 618.2-acre Federal installation with approximately 1,150 persons of whom approximately 125 are resident employees of the Veterans' Administration. The United States has exclusive jurisdiction over the reservation, except for the service of civil and criminal processes.

The Department of Justice has advocated general legislation to take care of cases such as this. Places over which the United States has exclusive jurisdiction are not considered part of the State in which they are physically located. Only the States of California, West Virginia, Utah, and Nevada permit residents of such areas to qualify as voters. Since there is no general law on this subject, the Department of Justice and the Veterans' Administration have no objections to the enactment of this specific proposal.

There will be no additional expenditure of public funds as the result of enactment of this proposal.

The favorable reports of the Department of Justice and the Veterans' Administration follow:

MAY 5, 1966.

Hon. OLIN E. TEAGUE,
*Chairman, Committee on Veterans' Affairs,*
*House of Representatives,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 12664, 89th Congress, a bill to retrocede to the State of Colorado exclusive jurisdiction held by the United States over the real property comprising the Fort Lyons Veterans Hospital.

The Fort Lyons Veterans Hospital, which is located in Bent County, Colo., near the city of Las Animas, is a 618.2-acre Federal installation with a population of approximately 900 persons, of whom a substantial number (occupying 60 family quarters and 21 other residential quarters) are indicated to be resident employees of the Veterans' Administration or their families, and the rest to be patients.

The United States has exclusive jurisdiction over the site of this installation, just as it has over the District of Columbia. For many purposes places over which the United States has such jurisdiction freqently are not considered a part of the State in which they are physically located. This is true as to voting: only the States of California, West Virginia, Utah, and Nevada generally permit residents of such areas to qualify as voters. It is understood that the present bill is occasioned by a desire upon the part of some 125 residents of the Fort Lyons installation to vote.

A 2-year study by an interdepartmental committee of the subject of jurisdiction over Federal areas within the States led to conclusion, reported in 1956 and 1957 ("Report of the Interdepartmental Committee for the Study of Jurisdiction over Federal Areas within the States": Pt. I: The Facts and Committee Recommendations (1956); Pt. II: A Text of the Law of Legislative Jurisdiction (1957)), that with respect to the large bulk of federally owned or operated real property in the several States it is desirable that the Federal Government not receive, or retain, any measure of jurisdiction whatever, but that it hold the installations and areas in a proprietorial status only. In the past 10 years Federal agencies have accepted jurisdiction over their properties only in rare circumstances, and the United States has jurisdiction with respect to only less than 5 percent of its real property. Nevertheless, it continues to have jurisdiction over approximately 5,000 individual properties, on which approximately 1 million persons are indicated to live. While Federal agencies are authorized by

statute to accept jurisdiction (see 40 U.S.C. 255), they are not authorized to relinquish jurisdiction which the United States already has. General legislation to authorize relinquishment, H.R. 10613 in the 89th Congress, has been pending for some years.

The Department of Justice has consistently advocated the enactment of the general legislation referred to above. However, it is extremely sensitive to the desire to vote of Federal employees and their families required to live on Federal installations as in the case of persons at the Fort Lyons Veterans Hospital. Consequently, in the absence of general legislation the Department has no objection to enactment of this legislation (H.R. 12664).

In *Kemp* v. *Heebner* (77 Colo. 177, 234 P. 1068), it was indicated that in Colorado a Federal employee could not acquire a domicile, and therefore Colorado voting rights, by virtue of residence on any Federal installation, without reference to its jurisdictional status. The exclusive Federal jurisdiction at the Fort Lyons Veterans Hospital might well in any event be eliminated as a different and positive basis for disqualification as voters of Colorado domiciliaries resident there, for such other benefits as thereby might be derived by residents not Colorado domiciliaries, and on the possibility that Colorado courts would now take a different view than in this 1925 decision.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

RAMSEY CLARK,
*Deputy Attorney General.*

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VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
*Washington, D.C., May 5, 1966.*

HON. OLIN E. TEAGUE,
*Chairman, Committee on Veterans' Affairs,*
*House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for a report on H.R. 12664, 89th Congress.

The bill would retrocede to the State of Colorado the exclusive jurisdiction of the United States over the Veterans' Administration hospital reservation, Fort Lyon (not Lyons as set forth in the title and in line 6 of the bill), Colo. The retrocession would be effective upon acceptance by the State of Colorado.

The lands comprising the reservation of the Veterans' Administration hospital at Fort Lyon are a part of the former Fort Lyon military reservation. Exclusive jurisdiction over this land, except for the service of civil and criminal processes of the State courts, was ceded to the United States by the State of Colorado (Colorado Rev. Stat. Secs. 143–1–19 to 143–1–21).

We understand that the primary objective of the bill is to enable resident employees of our hospital reservation at Fort Lyon to vote. As the qualifications for voting are prescribed by State law, the question of whether enactment and subsequent acceptance of retrocession by the State would accomplish such purpose is one for resolution by appropriate State officials. We note in this connection the decision of the Supreme Court of Colorado in the case of *Kemp* v. *Heebner*

(77 Colo. 177, 234 P. 1068), relating to the rights of certain resident employees of the U.S. Government's Fitzsimons General Hospital. In that case the court held that even if it was conceded that all the powers of sovereignty concerning the Federal land in question were still vested in the State, the resident employees of the hospital, under the State constitution and controlling statutes, could not acquire, on the hospital grounds, a residence such as is required in order to vote.

Irrespective of whether the employees at Fort Lyon are permitted to vote as a result of enactment of H.R. 12664, it appears that such enactment could subject them to other State laws of general application, such as those relating to taxes and law enforcement.

For your information, the Department of Justice has submitted general legislation to the Congress dealing with the adjustment of the legislative jurisdiction exercised by the United States over land in the several States. The House bill, H.R. 10613, is pending before the Committee on Government Operations. It is designed to provide a basis for assuring residents of Federal areas many rights, privileges, and services which they would not otherwise enjoy.

Our primary concern with H.R. 12664 is whether its enactment would interfere with the effective operation of our hospital at Fort Lyon. It does not appear that the proposed retrocession of exclusive jurisdiction to the State of Colorado would have any such adverse effect. Accordingly, the Veterans' Administration would not object to the favorable consideration of H.R. 12664 by your committee.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

W. J. DRIVER, *Administrator.*

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